

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
SOUTHERN DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

v.

LOUIS WOLF, a/k/a GUSTAV
SIERAWSKI, d/b/a ILLINOIS
DEVELOPMENT CORPORATION,
COMMERCIAL MANAGEMENT
COMPANY, CMC MANAGEMENT,

Defendant.

No. 89 C 5915

Judge James B. Zagel

AFFIDAVIT OF ROBERT J. BOWDEN

Robert J. Bowden, being duly sworn on oath, deposes and states as follows:

1. I have been employed by the United States Environmental Protection Agency (U.S. EPA) in Chicago, Illinois for the past twenty years. Presently, I am the Chief of the Emergency and Enforcement Response Branch. At the time of the emergency removal action taken at the A-Chemical Corporation Site (A-Chem) in Chicago, Illinois, I was chief of Response Section One of the U.S. EPA, Region V. As such, my duties included the supervision of removal actions conducted by On-Scene Coordinators (OSC).

2. A removal action, as defined by Section 101(23) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), means the cleanup or removal of released hazardous substances from the environment as well as the taking of other actions as may be necessary to prevent, minimize,

or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release.

3. Pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9604, whenever there exists a release or substantial threat of release of any hazardous substances into the environment or there exists a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the National Contingency Plan (NCP) ["National Oil and Hazardous Substances Pollution Contingency Plan" 40 CFR Part 300, et seq.] to take any response measure to protect the public health or welfare or the environment. The President, pursuant to Executive Order 12580, has delegated certain functions vested in him by CERCLA. These functions, including the direction of response efforts and the coordination of all other efforts at the scene of a discharge or release, shall be conducted by the OSC, consistent with the NCP § § 300.120 and 300.125 (1990).

4. An OSC is the federal official predesignated by U.S. EPA to coordinate and direct federal response actions at the scene of a discharge or release of hazardous substances, which

includes removal actions and enforcement activities related thereto.

5. A release, as defined by CERCLA Section 101(22), 42 U.S.C. § 9601(42), means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, which includes the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substances or pollutants or contaminants.

6. I recommended the removal action at the A-Chem Site in order to prevent or mitigate an imminent and substantial endangerment to public health or welfare or to the environment from an incident which occurred at the A-Chemical Corporation on January 26, 1986. Water contaminated with hazardous substances had run off into the adjoining yards, sidewalks and alleyway. The facility posed a threat in that it was located on a major thoroughfare which receives heavy vehicular and pedestrian traffic. The A-Chem building was unsecured and easily accessible to passersby and vandals. The potential for further off-Site contamination of chromium water was very high. Hexavalent chromium poses potentially significant health risks through ingestion, inhalation and dermal contact.

7. As chief of the Response Section One, I discussed the situation at the A-Chem site with the On-Scene Coordinator. The Technical Assistance Team (TAT) was mobilized to provide

technical support and assistance to the OSC in the implementation of the emergency removal action. The A-Chem building was secured to prevent unauthorized access to the Site. A meeting was subsequently held between the facility operator, Mr. John Pauga, the City of Chicago and the U.S. EPA to discuss the cleanup of the Site by the operator. A cleanup was never initiated by Mr. Pauga as he died in the spring of 1986. The City of Chicago did not wish to participate in any removal of the drums from the A-Chem Site.

8. U.S. EPA again responded to a subsequent fire at the A-Chem site on June 2, 1986. A site entry at this time was not made as the structural integrity of the building was determined unsafe. A removal action by U.S. EPA was undertaken to remove the fire damaged drums from the site.

9. I reviewed the daily pollution reports prepared by the OSC which apprised me of any significant developments which occurred during the removal Response action. These reports, required pursuant to 40 C.F.R. § 300.135(m), kept me informed of daily activities at the A-Chem Site. The OSC and myself also communicated regarding Site matters by telephone throughout the removal action.

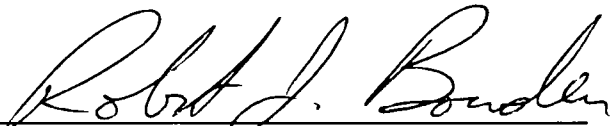
10. As part of the removal action, 277 drums of waste and 23,154 gallons of contaminated water were removed from the Site.

11. As a result of this cleanup response action, U.S. EPA incurred costs of approximately \$201,482.53, which includes,

among other things, the costs of disposal, labor and material costs. All of the costs incurred by U.S. EPA have been paid out of the Hazardous Substances Superfund.

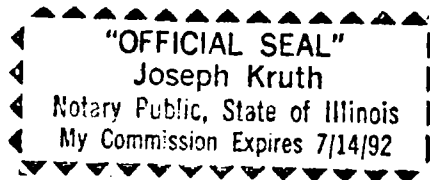
12. To the best of my knowledge, no reimbursement has been made by any responsible party.

Further, affiant sayeth not.


ROBERT J. BOWDEN

SUBSCRIBED AND SWORN TO
before me on this 16th day of
July, 1991.


NOTARY PUBLIC



My commission expires _____.